

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

DAVID LEE JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-05-933-L
)	
JUDGE PEDDLEFORD, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the court for review of the Report and Recommendation entered by United States Magistrate Judge Gary M. Purcell on September 29, 2005. In this civil rights action brought by plaintiff, appearing *pro se*, the Magistrate Judge recommended that plaintiff's action be dismissed without prejudice to refiling due to plaintiff's failure to pay the initial partial filing fee or to show cause for his failure to do so.

The court file reflects that no party filed an objection with the Clerk of this Court within the time limits prescribed in the Report and Recommendation. Although plaintiff recently mailed a letter to the court which has been filed in the record [Doc. No. 10], the court notes that it does not address plaintiff's failure to pay an initial partial filing fee of \$28.05 by September 26, 2005 as ordered by the Magistrate Judge. Thus, as of this date, plaintiff has failed to either pay the initial partial filing fee or show cause in writing for his failure to do so. Plaintiff has been

advised that failure to comply with the court's orders in this regard could result in dismissal of this action without prejudice to refiling. Having conducted a *de novo* review of the matter, the court finds that the Report and Recommendation should be adopted in its entirety. It would not be proper for the court to undertake a consideration of the case in light of plaintiff's continued refusal to pay the initial partial filing fee or to show cause for his failure to do so.

Therefore, plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE** to refiling for failure to pay the initial partial filing fee or to show cause for his failure to do so.

It is so ordered this 28th day of October, 2005.



TIM LEONARD
United States District Judge